

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF GEORGIA
BRUNSWICK DIVISION**

ELIZABETH MILLER,

Plaintiff,

vs.

WAL-MART STORES EAST, LP

Defendant.

CIVIL ACTION FILE NO.

NOTICE OF REMOVAL

Defendant WAL-MART STORES EAST, LP petitions for removal of the action herein from the State Court of Wayne County to the United States District Court for the Southern District of Georgia, Brunswick Division, and respectfully shows the Court the following:

1.

Plaintiff filed the above-styled civil action in the State Court of Wayne County, Civil Action File No. STCV2024000074 on May 2, 2024. Attached as Exhibit "A" are copies of all process, pleadings, and orders filed in that action known to Defendant.

2.

Plaintiff's Complaint alleges that she was injured in a slip and fall accident at the Walmart store located at 1100 N. 1st Street, Jesup, Georgia in Wayne County, Georgia. (Exhibit "A", Plaintiff's Complaint ¶¶ 13).

3.

Plaintiff filed suit in Wayne County, Georgia, based on the location of the alleged incident. (Exhibit "A", Plaintiff's Complaint ¶ 3).

4.

As discussed in greater detail below, Defendant removes this case as this Court has diversity jurisdiction over this action under 28 U.S.C. § 1332, which requires (a) complete diversity of citizenship between the parties, and (b) an amount in controversy exceeding \$75,000.

5.

The parties are citizens of different states. Plaintiff is a Georgia citizen and resides in Georgia. (Exhibit “A”, Plaintiff’s Complaint ¶ 1).

Wal-Mart Stores East, LP is a limited partnership incorporated in the State of Delaware with its principal place of business in the State of Arkansas. Wal-Mart Stores East, LP is a citizen of Delaware and Arkansas.

Wal-Mart Stores East, LP’s general partner is WSE Management, LLC, a limited liability corporation incorporated in the State of Delaware with its principal place of business in the State of Arkansas. WSE Management, LLC is a citizen of Delaware and Arkansas.

Wal-Mart Stores East, LP’s limited partner is WSE Investment, LLC, a limited liability corporation incorporated in the State of Delaware with its principal place of business in the State of Arkansas. WSE Investment, LLC is a citizen of Delaware and Arkansas.

The sole member of WSE Management, LLC and WSE Investment, LLC is Wal-Mart Stores East, LLC, a limited liability corporation incorporated in the State of Arkansas with its principal place of business in Arkansas. Wal-Mart Stores East, LLC is a citizen of Arkansas and Delaware.

Walmart Inc. is the sole member of Wal-Mart Stores East, LLC. Walmart Inc. is incorporated in the State of Delaware with its principal place of business in the State of Arkansas with no parent company. Walmart Inc. is a citizen of Delaware and Arkansas.

Therefore, Defendant Wal-Mart Stores East, LP does not have any members or partners that are Georgia citizens. Consequently, complete diversity of citizenship exists between the parties. *See* 28 U.S.C. § 1332(a)(1).

6.

The amount in controversy exceeds \$75,000. Plaintiff's Complaint does not list the medical expenses incurred as a result of the alleged incident at Walmart, for which she seeks to recover. (*See Exhibit "A"*, Plaintiff's Complaint). However, Plaintiff's counsel sent an email to Walmart on March 22, 2024, in which she claimed that Plaintiff had just undergone a surgical procedure and that her medical bills will be in excess of \$350,000.00. (*Exhibit "B"*). In addition, Plaintiff alleges that she suffered past medical expenses in addition to future medical expenses, and past, present, and future physical pain and suffering." Plaintiff also seeks to recover compensatory damages from Defendant in an amount to be proven at trial. (*Id.* ¶ 21 and 22). *See Fowles v. TJX Companies, Inc.*, No. 4:21-CV-00198, 2022 WL 188134, at *2 (M.D.Ga. 2022) (finding the amount in controversy requirement met where the plaintiff claimed \$35,114.71 in medical bills plus unspecified future medical expenses and pain and suffering). Accordingly, the amount in controversy between Plaintiff and Defendant exceeds the sum of \$75,000. The Court is authorized to consider the information contained in these documents as an "other paper" for purposes of determining jurisdiction. The Eleventh Circuit has acknowledged that settlement offers, demand letters, and emails estimating damages can constitute an "other paper" under 28 U.S.C. § 1446(b)."'). *Lowery v. Alabama Power Co.*, 483 F.3d 1184, 1212 n. 62 (11th Cir. 2007) (internal citations omitted). In determining amount in controversy, "[t]he definition of 'other paper' is broad and may include any formal or informal communication

received by a defendant.” *Lambertson v. Go Fit, LLC*, 918 F. Supp. 2d 1283, 1285 (S.D. Fla. 2013).

7.

Therefore, this Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 1332 (a), 1441, and 1446 because (a) complete diversity exists between the parties to this action, and (b) the amount in controversy is in excess of \$75,000.

8.

By service of a copy of this Notice of Removal as evidenced by the Certificate of Service attached, Defendant gives notice of such removal to Plaintiff as required by 28 U.S.C. § 1446.

9.

This removal is timely because it is filed within 30 days of service of Plaintiff’s Complaint.

10.

A true and correct copy of this Notice of Removal will be filed with the Clerk of the State Court of Wayne County, Georgia as required by 28 U.S.C. §1446(d).

11.

Pursuant to 28 U.S.C. § 1447, Defendant is not required to file a removal bond.

Wherefore, Defendant prays that the above-styled lawsuit be removed to the United States District Court for the Southern District of Georgia, Brunswick Division, that this Court take cognizance and jurisdiction over this claim from the State Court of Wayne County, Georgia, and that this action shall proceed as removed and under this Court’s jurisdiction under 28 U.S.C. § 1332.

Respectfully submitted, this 7th day of June 2024.

DREW, ECKL & FARNHAM, LLP

/s/ Garret W. Meader

Garret W. Meader

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I have this day served the foregoing *Notice of Removal* upon all parties to this matter by filing with the Court's CM/ECF system, which will automatically e-mail notification of same to all counsel of record.

This 7th day of June, 2024.

DREW ECKL & FARNHAM, LLP

/s/ Garret W. Meader
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